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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/304,906	05/04/1999	RALPH E. SIPPLE	33012/264/10	1322

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EXAMINER

TRAN, HAI V

ART UNIT PAPER NUMBER

2623

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/304,906	<b>Applicant(s)</b> SIPPLE ET AL.	
	<b>Examiner</b> Hai Tran	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 27 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/27/2005 has been entered.

### ***Response to Arguments***

Applicant argues, "Date of the invention of the Unisys CMP architecture. Applicant do not understand this request ... On information and belief, none of these patent applications specifically claims "the Unisys CMP architecture".

In response, the Examiner does not request any information, i.e., Unisys CMP architecture, from Applicant, but only reminds Applicant that Applicant has a Duty to disclose information material to patent-ability, see MPEP 37 CFR 1.56.

Applicant further argues, "it is not understood how the Examiner's request for information can have any relevance in view of 35 USC §103".

In response, the Examiner requests for information because Applicant disputes the effective date of May 13, 1998, as effective/conceive date of Unisys CMP architecture according to the printed prior art reference (i.e., the press release of Unisys

dated May 13, 1998). Applicant's failure to provide any evidences for the fact to traverse the effective date of May 13, 1998, is taken as an admission of the fact.

Applicant's arguments with respect to claims 1-25 filed 12/27/2005 have been fully considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-2, 4-6, 10-12, 14-25 are rejected under 35 U.S.C. 102(e) as being unpatentable by Craig (US5790176).

Claim 1, Craig discloses in a VOD system for supplying requested video data to a plurality of subscriber receivers (Fig. 1-3), the improvement comprising:

A 1<sup>st</sup> processor (350,370 of Fig. 2, 3A or gateway 572 of Fig. 5) having a 1<sup>st</sup> hardware architecture optimized to perform a variety of computational task, which

spools the requested video data in response to the request (Col. 13, lines 45-Col. 14, lines 30);

A video server memory (270, Fig. 2, 3B) responsively coupled to the 1<sup>st</sup> processor in which the spooled requested video data is stored (Fig. 5); and

A 2<sup>nd</sup> processor (330, Fig. 3A; Fig. 5, el. 541) having a 2<sup>nd</sup> hardware architecture different from the 1<sup>st</sup> hardware architecture optimized to perform I/O operations responsively coupled to the video server memory and the subscriber receiver which accesses the spooled requested video data directly from the video server memory without passing through the 1<sup>st</sup> processor and streams the spooled requested video data to the plurality of subscriber receivers in a plurality of streams spaced apart by a predetermined time (Col. 13, lines 45-61; Col. 15, lines 8-20; Col. 16, lines 60-65).

Claim 2, Craig further discloses wherein the video server memory further comprises a commercial computer memory platform (Fig. 5 with associate memory).

Claim 4, Craig further discloses wherein the 1<sup>st</sup> processor further comprises a transaction server responsively coupled to the subscribing receiver and the video server memory (gateway 572 of Fig. 5; Col. 16, line 33-55);

Claim 5, Craig further discloses wherein the requested video data further comprises MPEG-2 format (Col. 12, lines 35-62).

Claim 6, is analyzed with respect to claims 1 and 4 in which Craig further discloses two subscribing television receivers (Fig. 1) each of which providing a separate spaced apart service request for a video program (Col. 16, lines 55-Col. 17, lines 6);

Claim 10, wherein the 1<sup>st</sup> architecture of the transaction server is optimized about a variety of processing operations (gateway 572 of Fig. 5; Col. 16, line 33-55);

Claim 11 Craig discloses a VOD system (Fig. 1-3) comprising:

1<sup>st</sup> requesting means for requesting a VOD program at a 1<sup>st</sup> time (reads on 1<sup>st</sup> user/client request a program at time T1; see Col. 14, lines 21-30; Col. 16, lines 2, lines 40-49).

2<sup>nd</sup> requesting means for requesting said VOD program at a later time (reads on 2<sup>nd</sup> user/client request the same program at time T2; see Col. 13, lines 45-61; Col. 14, lines 21-30).

Transaction means (350,370 and 250 of Fig. 2, 3A-B or gateway 572 of Fig. 5) having a 1<sup>st</sup> hardware and software architecture optimized about a variety of processing operation responsively coupled to the 1<sup>st</sup> requesting means and the 2<sup>nd</sup> requesting means for spooling the VOD program (Col. 13, lines 45-Col. 14, lines 30)

Storing means (270, Fig. 2, 3B) responsively coupled to the transaction processing means (350,370,250 of Fig. 2 or gateway 572 of Fig. 5) for storing a copy of the spooled VOD program (Col. 10, lines 30-Col. 13, lines 45); and

Video processing means (330 of Fig. 3A, output controller /control server with associated memory devices of Fig. 5) having a 2<sup>nd</sup> hardware and software architecture different from the 1<sup>st</sup> hardware and software architecture and optimized input/output processing responsively coupled to the storage means for access and the requested VOD program twice directly from the copy stored within the storing means (270, Fig. 2, 3B) without passing the requested VOD program through the transaction processing means and from streaming the requested VOD program at a 1<sup>st</sup> time to the 1<sup>st</sup> requesting means and at the 2<sup>nd</sup> and later time to the 2<sup>nd</sup> requesting means (Col. 13, lines 45-61; Col. 15, lines 8-20; Col. 16, lines 60-65).

Claim12, wherein the 1<sup>st</sup> requesting means further comprise a subscriber box (see Fig. 1, el. 130).

Claim 14, wherein the video processing means further comprises a commercial computer memory platform (Fig. 5 with associate memory).

Claim 15, further comprises a transaction subsystem for managing archival storage of video streams in hierarchical storage management system that is

integrated with the management application and requires no manual intervention (see Fig. 5, Fig. 3, el. 250, librarian Col. 9, lines 30-46).

Claim 16, the method of claim 16 is analyzed with respect to apparatus claim 16 in which Craig further discloses streaming the corresponding video program directly from the single copy of the video program to the 1<sup>st</sup> subscriber at a 3<sup>rd</sup> time by a video processor having a second hardware and software architecture (reads on Transmission of the request is delayed for a predetermined number of minutes N in response to the 1<sup>st</sup> request for the video selection, i.e. at  $T1+N$ , the requested video start to transmit; Col. 15, lines 10-27) ; and

Streaming the corresponding video program directly from the single copy of the video program to the 2<sup>nd</sup> subscriber begin at a time different from and later than the 3<sup>rd</sup> time by the video processor (reads on the subsequent request from the 2<sup>nd</sup> subscriber that outside the delay period N; Col. 15, lines 10-27);

Claim 17, Craig further discloses streaming the corresponding video program to the 1<sup>st</sup> subscriber at the 3<sup>rd</sup> time and streaming the corresponding video program to the 2<sup>nd</sup> subscriber at a 4<sup>th</sup> time if the difference between the 2<sup>nd</sup> later time and the 1<sup>st</sup> time is greater than a predetermined interval (reads on the subsequent request from the 2<sup>nd</sup> subscriber that outside the delay period N; Col. 15, lines 10-27);



Claim 18, Craig further discloses wherein the predetermined interval further comprises about one minute (reads on the 2<sup>nd</sup> later request time T2 is outside (greater than) the delay period N from the time the 1<sup>st</sup> user/client request a program at time T1, i.e.  $T2 > T1 + N$ ; Col. 15, lines 10-27).

Claim 19, Craig further discloses fast forwarding the stream to the 1<sup>st</sup> subscriber in response to a FF from the 1<sup>st</sup> subscriber (Col. 8, lines 43-50).

Claim 20, Craig further discloses performing subscriber accounting to enable billing the 1<sup>st</sup> subscriber for the VOD request (Col. 7, lines 9-12).

Claim 21 is analyzed with respect to claim 11.

Claim 22, Craig further discloses wherein the 1<sup>st</sup> hardware and software architecture is optimized for a variety of transaction processing task (Col. 13, lines 45-Col. 14, lines 30).

Claim 23, Craig further discloses wherein the 2<sup>nd</sup> hardware and software architecture is optimized for I/O processing (Col. 13, lines 45-61).

Claim 24, Craig further discloses wherein the memory is a temporary memory for storage of the video program from the spooling to the streaming (Fig. 3B, el. 278; Fig.4 DRAM storage unit; Fig. 5, el. 531).

Claim 25, Craig further discloses wherein the memory further comprises commercial computer memory platform (see Fig. 5).

***.Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 3, 7-9, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Craig (US5790176).

Claim 3, Craig discloses wherein the 2<sup>nd</sup> processor further comprises an industry compatible (Col. 16, lines 17-28).

Craig does not clearly disclose a "Windows NT based processor".

Official Notice is taken that using "Windows NT based processor" is notoriously well known in the art, i.e. Intel Processor, in a server for supporting NT windows OS. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Craig's processor with "Windows

NT based processor", i.e. Intel processor, so to take the advantage of the well known Intel processor that is fully compatible with Windows NT OS for reducing cost of maintenance and operation.

Claim 7 is analyzed with respect to claim 3.

Claim 8, Craig further discloses wherein the video server memory further comprises a commercial computer memory platform (Fig. 5 with associate memory).

Claim 9, Craig further discloses wherein the requested video data further comprises MPEG-2 format (Col. 12, lines 35-62).

Claim 13, wherein the video processing means further comprises an industry computer (control server 570 of Fig. 5; Col. 16, lines 33-38).

Craig does not clearly disclose the industry computer (control server 570) is a standard personal computer.

Official Notice is taken that using a standard personal computer with industry standard Intel Processor for running NT windows OS, as server/controller, is notoriously well known in the art; Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Craig's industry control server 570 with a standard PC with Intel processor, so to take the advantage

of the well known Intel processor that is fully compatible with Windows NT OS for reducing cost of maintenance and operation.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Tran whose telephone number is (571) 272-7305. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher S. Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HT:ht  
0330/2006

  
HAI TRAN  
PRIMARY EXAMINER